

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1, 9, and 19-21 are in the application. Claims 1 and 9 have been amended to claim that the Vitamin F is an essential fatty acid consisting of an omega-6 polyunsaturated fatty acid. Support for this amendment can be found in the specification on page 1, last paragraph. New claims 19 and 20 have been added to claim that the complex is formed from linoleic acid or alpha-linolenic acid and alpha-cyclodextrin. Claim 21 has been added to be specific for linoleic acid. Support for these claims can be found in the specification on page 3, next-to-last line, and page 4, line 10.

The Examiner rejected claims 1 and 9 under 35 U.S.C. §103 as being unpatentable over Bruzzese et al. in view of Schlenk et al. and further in view of Koulbanis. The Examiner also rejected claim 1 under 35 U.S.C. 102 as being anticipated by Bruzzese. Applicants respectfully traverse.

The presently amended claims are limited to a 3:1 or 4:1 complex of alpha-CD with an omega-6 polyunsaturated acid, or the complex of alpha-CD with the specific fatty acids of linoleic acid or alpha-linolenic acid.

Bruzze discloses 2:1 or 1:1 PUFA/CD complexes, but does not disclose 2:1 or 1:1 EFA/CD complexes, wherein the EFA is an essential fatty acid consisting of an omega-6 polyunsaturated fatty acid. The present application in claims 1 and 9 solely claims 3:1 and 4:1 omega-6/CD complexes. Therefore, the argumentation of the Examiner based on 2:1 or 1:1 EFA/CD complexes as state of the art, that it is the burden of the applicant to show a novel or unobvious difference between the claimed product and the product of the prior art is unjustified, because no such state of the art exists.

Schlenk discloses that fatty acids with 17 and higher carbons produce 1:3 complexes with CD. The Examiner argues that the combination of Schlenk and Bruzze make the present invention obvious because one of ordinary skill in the art would have been motivated to use alpha CD to form a complex with

essential fatty acids because the complexation increases solubility and alpha CD forms higher order complexes with longer chain fatty acids. This argumentation is not correct, because the aim of the present application is to achieve complexes with an increased stability and not complexes with an increased solubility of the complex. Schlenk discloses saturated fatty acids, whereas the present application is only related to very particular essential fatty acids. Saturated fatty acids are per se stable, whereas the claimed essential fatty acids are not stable as discussed in the present application. Therefore, the problem to be solved by the 3:1 and 4:1 complexes does not exist for the materials complexed by Schlenk, and a combination of Schlenk and Bruzzese cannot lead to a solution for the problem to be solved by the present application. Moreover, even if combined, such a combination does not lead to the present invention because Bruzzese does not disclose the complexation of omega-6 polyunsaturated essential fatty acids. A teaching which results in 1:1 and 2:1 complexes of PUFAs with CDs cannot anticipate a teaching which results in 3:1 and 4:1 complexes of omega-6 polyunsaturated essential fatty acids with CD.

Koulbanis discloses the use of Vitamin F for the preparation of cosmetics, and further discloses the problem of vitamin F with oxidation. Thus, Koulbanis describes the state of the art for the use of Vit. F in cosmetics. The problems of this state of the art are resolved by the present application, and none of the cited references suggest that a complex of alpha CD with an omega-6 polyunsaturated fatty acid would solve these problems. Thus, the claimed solution is not rendered obvious by combination of Koulbanis with Bruzzese.

Regarding new claims 19-21, Bruzzese discloses 1:1 complexes of polyunsaturated fatty acids with cyclodextrin. There is no suggestion in Bruzzese to use linoleic acid or alpha-linolenic acid in a complex with cyclodextrin, and especially not in the ratios claimed in claims 1, 9 and 19-21. Neither Schlenk nor Koulbanis disclose this combination either. Schlenk discloses saturated fatty acids in complexes with cyclodextrins, and Koulbanis discloses solutions made from EFAs. Therefore, combining Schlenk, Koulbanis and Bruzzese would not lead to the invention of new claims 19-21.

In addition, the claimed complexes significantly improve the usability of the claimed compounds in cosmetics, in contrast to Koulbanis.

Enclosed as Appendix A, which was also enclosed in the response to the Final Office Action, is a Power Point presentation which shows:

- on slide 9: a scheme is given which shows a model which illuminates why only 3:1 and 4:1 complexes work well and why 1:1 and 2:1 complexes have only a very minor effect (only 3 or 4 CD cavities cover the long EFA molecule sufficiently to result in a positive effect).
- on slide 13: the thermostability of different complexes of linoleic acid with CDs.
- on slide 14: the UV stability of a complexed (invention) and an uncomplexed (state of the art) linoleic acid
- on slide 17: the UV stability of complexed (invention) and uncomplexed (state of the art) linoleic acid in a cream.

- on slide 18: the long-term stability of 1% linoleic acid as 4:1 complex (invention) and uncomplexed (state of the art) linoleic acid in a cream.

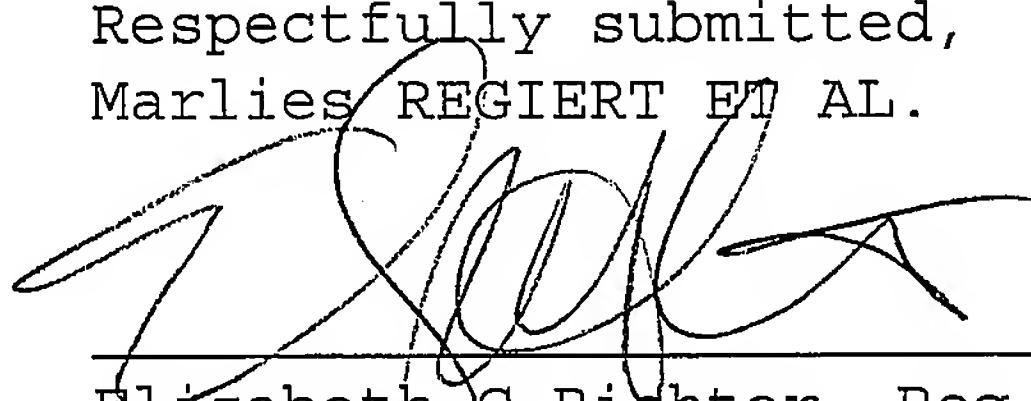
-on slide 19: the degradation behavior of complexed and uncomplexed linoleic acid is shown.

-on slide 20: the light stability of of 1% linoleic acid as 4:1 complex (invention) and uncomplexed (state of the art) linoleic acid in color cosmetics is shown.

Claims 19-21 are therefore patentable over the cited references, because none of the references refer to a complex with linoleic acid or alpha-linolenic acid with alpha cyclodextrin in the ratios claimed.

Accordingly, Applicant submits that the claims are patentable over the cited references, taken either singly or in combination. Early allowance of the amended claims is respectfully requested.

Respectfully submitted,
Marlies REGIERT ET AL.

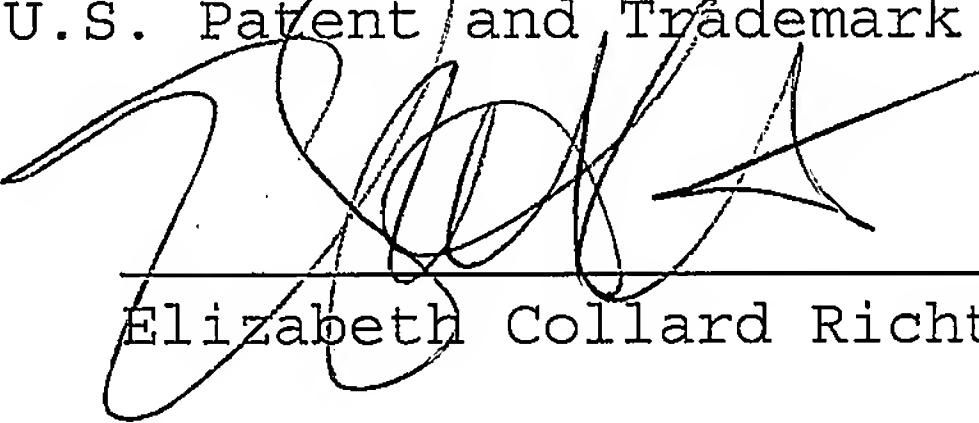


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Enclosure: Appendix A

I hereby certify that this correspondence is being filed electronically in the U.S. Patent and Trademark Office on June 6, 2008.



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